

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

THOMAS CULLINAN, Individually and  
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

CENTREX, INC., SAAGAR GOVIL,  
ARON GOVIL and RENATO DELA  
RAMA,

Defendants.

Case No.:

**CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL  
SECURITIES LAWS**

**JURY TRIAL DEMANDED**

Plaintiff Thomas Cullinan (“Plaintiff”), by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory filings made by Cemtrex, Inc., (“Cemtrex” or the “Company”), with the United States (“U.S.”) Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and disseminated by Cemtrex; and (c) review of other publicly available information concerning Cemtrex.

### **NATURE OF THE ACTION AND OVERVIEW**

1. This is a class action on behalf of persons and entities that acquired Cemtrex’s securities between February 11, 2016, and February 22, 2017, inclusive (the “Class Period”), against the Defendants,<sup>1</sup> seeking to pursue remedies under the Securities Exchange Act of 1934 (the “Exchange Act”).

2. Cemtrex is a technology company that purportedly provides solutions to meet industrial and manufacturing challenges. The Company purportedly provides electronic manufacturing services for advanced electric system assemblies, instruments & emission monitors for industrial processes, and industrial air filtration and environmental control systems.

3. On February 17, 2017, the status of Source Capital Group, Inc.’s (“Source Capital’s”) FINRA and SEC registrations were listed as “Termination Requested.” Source Capital worked with the Company as a dealer-manager in a previous offering.

4. On this news, the price of Cemtrex common stock fell \$0.65 per share, or 11.2%, to close at \$5.12 per share on February 21, 2017, on unusually heavy trading volume.

5. On February 22, 2017, an article was published on the popular investing website *SeekingAlpha.com* entitled “Cemtrex: Documents And Photos, All Signs Point To Deception And Failure.” Therein, the article brought greater publicity to the fact that on the preceding trading day Source Capital quietly had its SEC and FINRA registrations terminated following

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<sup>1</sup> “Defendants” refers to Cemtrex, Inc., Saagar Govil, Aron Govil, and Renato Dela Rama, collectively.

multiple violations. The article also disclosed that “[o]ver \$1 million has been paid to notorious stock promoters sending CETX soaring from below \$2,” and that there was “[h]eavy undisclosed selling by CETX insiders during [the] paid promotion.” The article further disclosed that “[f]ounder Aron Govil [was] secretly paying promoters via an undisclosed entity with little or no other activity,”—the same promoters “behind imploded frauds ForceField Energy and Code Rebel.” Finally, the article disclosed that “CETX’s supposed audit firm [was] traced to [a] vacant strip mall in Texas, [with] no operations,” that a “[c]ontrolling partner was banned by [the] SEC for multiple fraudulent audits, under multiple firm names,” and that though the Company claimed to have “[n]early \$100 million in revenues, from four countries on three continents,” “Cemtrex pays [its] auditor just \$20,000 per year in audit fees” which the article claimed was “[n]onsense.”

6. On this news, the price of Cemtrex common stock fell \$1.72 per share, or 33.5%, to close at \$3.40 per share on February 22, 2017, on unusually heavy trading volume.

7. Throughout the Class Period, Defendants made materially false and/or misleading statements, as well as failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to disclose: (1) that Source Capital was at risk of having its registrations terminated for wrongdoing; (2) that the Company was utilizing paid stock promoters to artificially inflate the price of the Company’s stock; (3) that Aron Govil, a member of the Company’s Board of Directors, was secretly paying stock promoters via an undisclosed entity; (4) that Company insiders were selling their stock during the paid promotion, taking advantage of the artificially inflated stock price; (5) that the Company’s purported audit firm claimed to operate at a location that was actually vacant; (6) that the controlling partner behind the Company’s auditor was banned by the SEC and PCAOB for conducting fraudulent audits or reviews of public companies while performing little or no work and without being licensed; (7) that the Company’s auditor was signing off on the Company’s financial disclosures without conducting a proper review; and (8) that, as a result of the foregoing, Defendants’ statements about Cemtrex’s business, operations, and prospects, were false and misleading and/or lacked a reasonable basis.

8. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

### **JURISDICTION AND VENUE**

9. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

11. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including the dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District. In addition, the Company's principal executive offices are located in this Judicial District.

12. In connection with the acts, transactions, and conduct alleged herein, Defendants directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, interstate telephone communications, and the facilities of a national securities exchange.

### **PARTIES**

13. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased Cemtrex common stock during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

14. Defendant Cemtrex, Inc. is a Delaware corporation headquartered in Farmingdale, New York. Cemtrex's common stock trades on the NASDAQ Stock Market ("NASDAQ") under the symbol "CETX."

15. Defendant Saagar Govil was the Chief Executive officer ("CEO") of Cemtrex at

all relevant times.

16. Defendant Aron Govil was the Executive Director of Cemtrex at all relevant times.

17. Defendant Renato Dela Rama was the Vice President of Finance and Principal Financial Officer of Cemtrex at all relevant times.

18. Defendants Saagar Govil, Aron Govil and Renato Dela Rama (collectively the “Individual Defendants”), because of their positions with the Company, possessed the power and authority to control the contents of Cemtrex’s reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. The Individual Defendants were provided with copies of the Company’s reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein.

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

19. Cemtrex is a technology company that purportedly provides solutions to meet industrial and manufacturing challenges. The Company purportedly provides electronic manufacturing services for advanced electric system assemblies, instruments & emission monitors for industrial processes, and industrial air filtration and environmental control systems.

### **Materially False and Misleading Statements Issued During the Class Period**

20. The Class Period begins on February 11, 2016. On that day, the Company issued a press release entitled “Cemtrex, Inc. Announces Q1 Results with Earnings Per Share Increasing 50%.” Therein, the Company, in relevant part, stated:

FARMINGDALE, N.Y., Feb. 11, 2016 -- Cemtrex, Inc. (CETX), a world leading industrial and manufacturing company, announced its first quarter consolidated results of operations for the three months ended December 31, 2015.

First Quarter Highlights:

- Earnings per share for the three months ended December 31, 2015 increased by 50% to \$.09 from \$.06 for the three months ended December 31, 2014.
- Net Income for the three months ended December 31, 2015 increased by 74% to \$692,395 from \$396,872 for the three months ended December 31, 2014.
- Net sales for the three months ended December 31, 2015 decreased by 4% to \$13,314,693 from \$13,842,780 for the three months ended December 31, 2014.

Cemtrex's Chairman and CEO, Saagar Govil, commented on the results, "This quarter we experienced headwinds due to the decline in oil & gas markets, however this was offset by an increase in demand in some of our other industrial and power markets. Revenues were down 4% but we are pleased with the outcome of our operating results with an increase in earnings per share. The fundamentals in our business remain strong and we are focused on continued profitable growth."

21. On, February 16, 2016, the Company filed its quarterly report on form 10-Q with the SEC. The 10-Q was signed by Defendants Saagar Govil and Renato Dela Rama, and reaffirmed the Company's financial results announced in the press release issued on February 11, 2016.

22. On August 8, 2016, the Company issued a press release entitled "Cemtrex Announces Q3 Sales of \$24.7 Million, an Increase of 69%." Therein, the Company, in relevant part, stated:

Farmingdale, NY, Aug. 08, 2016 -- Cemtrex Inc. (CETX), a world leading industrial and manufacturing solutions company, announced its third quarter consolidated results of operations for the three months ended June 30, 2016.

- Net sales for the quarter up 69%
- Net income for the quarter up 77%
- Net sales for nine months up 33% Net Income for nine months up 26.5%
- EBITDA for the quarter up 79%

- EBIDTA for nine months up 50%

### **Third Quarter Highlights:**

- Net sales for the three months ended June 30, 2016 increased by 69% to \$24,714,853 from \$14,665,748 for the three months ended June 30, 2015.
- Gross profit for the three months ended June 30, 2016 was \$8,158,669 as compared to \$4,252,202 for the three months ended June 30, 2015, representing a 92% advance. Gross profit margin was 33% compared to 29%, as the company realized economies of scale and an improving product mix.
- Net Income for the three months ended June 30, 2016 was \$1,470,625 as compared to \$828,758 for the three months ended June 30, 2015, representing an increase of 77.5%.
- EBITDA for the three months ended June 30, 2016 was \$1,965,353 as compared to \$1,096,586 for the three months ended June 30, 2015, representing a 79% increase.

### **Nine Months Highlights:**

- Net Income for the nine months ended June 30, 2016 was \$2,578,815 as compared to \$2,038,601 for the nine months ended June 30, 2015, representing an increase of 26.5%.
- Net Sales for the nine months ended June 30, 2016 was \$56,937,477 as compared to \$42,839,477 for the nine months ended June 30, 2015, representing an increase of 33%.
- EBITDA for the nine months ended June 30, 2016 was \$4,146,052 as compared to \$2,764,256 for the nine months ended June 30, 2015, representing an increase of 50%.

### **Other Recent Highlights:**

- Completed the accretive acquisition of an electronic manufacturing services (EMS) company based in northern Germany on May 31, 2016, greatly strengthening the Company's existing position in the EMS sector in this market.
- Received \$12 million in new orders from both existing and new customers in June, representing the strongest bookings month in the Company's history. The Company's newly acquired German electronics operation obtained an important order from a strategic new customer in the automotive industry.

Cemtrex's Chairman and CEO, Saagar Govil, commented on the results, "We believe our results this quarter validate our strategy to focus on our core strengths and enhance our organic growth with attractive acquisitions. We achieved strong operating performance with improvements in both top and bottom line results. With a new strategic customer at our German subsidiary, we are already seeing benefits from our latest acquisition. I want to commend our team for continuing to execute at a high level. Overall, we are focused on new opportunities for growth and are optimistic about our prospects for the future."

23. On, August 15, 2016, the Company filed its quarterly report on form 10-Q with the SEC. The 10-Q was signed by Defendants Saagar Govil and Renato Dela Rama, and reaffirmed the Company's financial results announced in the press release issued on August 8, 2016.

24. On December 22, 2016, the Company issued a press release entitled "Cemtrex Announces FY 2016 Annual Results: Sales Increase By 65% and Net Income up by 76%." Therein, the Company, in relevant part, stated:

FARMINGDALE, N.Y., Dec. 22, 2016 /PRNewswire/ -- Cemtrex (CETX), a world leading industrial and manufacturing solutions company, announced today its consolidated results of operations for the twelve months ended September 30th, 2016.

Fiscal Year 2016 Highlights:

Revenue increased by 65% to \$93,704,560 for the twelve months ended in September 30, 2016 compared to \$56,887,389 for the same period in 2015. Net Income was up 76% to \$4,994,045, equaling \$0.59 per share, in the twelve month period ended September 30, 2016 compared to an income of \$2,838,116 or \$0.41 in the same period in 2015.

EBITDA was up 120% to \$9,053,839 in the twelve month period ended September 30, 2016 compared to EBITDA of \$4,107,748 in the same period in 2015.

	FY 2016	FY 2015
Revenues	\$ 93,704,560	\$ 56,887,389
Gross Profit	\$ 29,213,670	\$ 16,322,570
Net Income	\$ 4,994,045	\$ 2,839,033

An Itemized reconciliation between Net Income and EBITDA is as follows;

	FY 2016	FY 2015
Net Income	\$ 4,994,045	\$ 2,838,116



Depreciation Expense	\$ 2,296,010	\$ 772,434
Interest Expense	\$ 673,612	\$ 496,281
Income Taxes	\$ 1,090,172	\$ 917
EBITDA	\$ 9,053,839	\$ 4,107,748

Commenting on the yearly results, Mr. Saagar Govil, Chairman and Chief Executive Officer of the Company remarked, “This past year we were able to complete two strategic acquisitions that allowed our revenues to increase 65%. Out net income also increased 76% mainly due to the increased income from the acquired operations. We have been able to establish a repeat customer base through our proven technologies, cost-effective manufacturing, and on-time delivery of equipment which creates a positive outlook for sustainable revenue growth.”

“Overall, this year was a great year for Centrex as we have seen our number of shareholders increase substantially and a significant increase in our average trading volume. Additionally, we have recently filed for a Rights Offering with Source Group, through the issuance of preferred shares, which when completed, would provide us additional resources for pursuing larger acquisitions. Furthermore, with the incoming Trump administration’s plan for increased infrastructure and manufacturing spending, we believe there is a lot to look forward to, as we continue to create value for our shareholders in the coming year,” continued Mr. Govil.

25. On, December 28, 2016, the Company filed its annual report on form 10-K with the SEC. The 10-K was signed by Defendant Saagar Govil, and reaffirmed the Company’s financial results announced in the press release issued on December 22, 2016.

26. The above statements identified in ¶¶20-25 were materially false and/or misleading, as well as failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to disclose: (1) that Source Capital was at risk of having its registrations terminated for wrongdoing; (2) that the Company was utilizing paid stock promoters to artificially inflate the price of the Company’s stock; (3) that Aron Govil, a member of the Company’s Board of Directors, was secretly paying stock promoters via an undisclosed entity; (4) that Company insiders were selling their stock during the paid promotion, taking advantage of the artificially inflated stock price; (5) that the Company’s purported audit firm claimed to operate at a location that was actually vacant; (6) that the controlling partner behind the Company’s auditor was banned by the SEC and PCAOB for conducting fraudulent audits or reviews of public companies while performing little or no

work and without being licensed; (7) that the Company's auditor was signing off on the Company's financial disclosures without conducting a proper review; and (8) that, as a result of the foregoing, Defendants' statements about Cemtrex's business, operations, and prospects, were false and misleading and/or lacked a reasonable basis.

#### **Disclosures at the End of the Class Period**

27. On February 17, 2017, the status of Source Capital's FINRA and SEC registrations were listed as "Termination Requested."

28. On this news, the price of Cemtrex common stock fell \$0.65 per share, or 11.2%, to close at \$5.12 per share on February 21, 2017, on unusually heavy trading volume.

29. On February 22, 2017, an article was published on the popular investing website *SeekingAlpha.com* entitled "Cemtrex: Documents And Photos, All Signs Point To Deception And Failure." Therein, the article stated:

1. Cemtrex is being heavily promoted by a promotion firm known as "Small Cap Specialists" (aka "SCS"). Past SCS promotions have been repeatedly halted or delisted due to financial irregularities or outright **fraud**. (Examples include delisted frauds ForceField Energy and Code Rebel, among others). On its website, the SEC has gone so far as to specifically warn investors about these exact type of promoters as an indication of **micro-cap fraud**.
2. Documents indicate that Aron Govil is paying this same promoter SCS to promote Cemtrex via wire transfers from an undisclosed entity in New York. The paid promotion by Cemtrex insiders has not been disclosed to Cemtrex investors. In the past, I have seen numerous examples of other companies engaged in similar undisclosed paid promotions that resulted in Federal charges or lawsuits for **securities fraud**.
3. As the share price has soared due to promotion, documents show that shares held by Cemtrex insiders (Aaron Govil, Saagar Govil and CFO Dela Rama) have been decreasing substantially during 2016, yet **Cemtrex insiders have failed to disclose any sales on Form 4s** during 2016. On places like Twitter, the Govils continue to tout the stock, encouraging retail investors to buy.
4. The controlling partner behind Cemtrex's auditor was banned by the SEC and PCAOB for conducting **fraudulent audits** or reviews of public companies while performing little or no work and without even being licensed. Cemtrex's auditor continues to claim that the firm is run from an office in Texas. But **photos** show that this address traces to a long-since **vacant strip mall**. The audit firm is **not even licensed** to practice in Texas. The only listed phone number in the US has been disconnected. That partner has repeatedly audited

public companies under the guise of differently named audit firms, which have then been shut down. When one audit firm gets shut down, he has **repeatedly** created new ones and then audits the **same clients**, using the **same personnel**, reporting the **exact same address** in Texas. Centrex's prior auditor was **shut down by the PCAOB** and is now classified as a "prohibited service provider". Despite having revenues of nearly \$100 million and operations in four countries across three continents, Centrex has only paid these auditors a mere \$15,000-20,000 per year to "audit" its complex financials.

5. The investment banks and IR firms hired by Centrex (including Source Capital) have repeatedly represented other heavily promoted companies that have been promoted by SCS or other promoters. There has been long running and significant involvement with companies, individuals or activities implicated in **securities fraud**.

30. On this news, the price of Centrex common stock fell \$1.72 per share, or 33.5%, to close at \$3.40 per share on February 22, 2017, on unusually heavy trading volume.

### **CLASS ACTION ALLEGATIONS**

31. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that acquired Centrex's securities between February 11, 2016, and February 22, 2017, inclusive, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

32. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Centrex's common stock actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the proposed Class. Millions of Centrex shares were traded publicly during the Class Period on the NASDAQ. As of February 6, 2017, Centrex had 10,064,384 shares of common stock outstanding. Record owners and other members of the Class may be identified from records maintained by Centrex or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that

customarily used in securities class actions.

33. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

34. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

35. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether statements made by Defendants to the investing public during the Class Period omitted and/or misrepresented material facts about the business, operations, and prospects of Cemtrex; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

36. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **UNDISCLOSED ADVERSE FACTS**

37. The market for Cemtrex's securities was open, well-developed and efficient at all relevant times. As a result of these materially false and/or misleading statements, and/or failures to disclose, Cemtrex's securities traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired Cemtrex's securities relying upon the integrity of the market price of the Company's securities and market

information relating to Centrex, and have been damaged thereby.

38. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of Centrex's securities, by publicly issuing false and/or misleading statements and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and/or misleading. The statements and omissions were materially false and/or misleading because they failed to disclose material adverse information and/or misrepresented the truth about Centrex's business, operations, and prospects as alleged herein.

39. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about Centrex's financial well-being and prospects. These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein when the truth was revealed.

### **LOSS CAUSATION**

40. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

41. During the Class Period, Plaintiff and the Class purchased Centrex's securities at artificially inflated prices and were damaged thereby. The price of the Company's securities significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

### **SCIENTER ALLEGATIONS**

42. As alleged herein, Defendants acted with scienter since Defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and/or misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding Centrex, their control over, and/or receipt and/or modification of Centrex's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Centrex, participated in the fraudulent scheme alleged herein.

### **APPLICABILITY OF PRESUMPTION OF RELIANCE (FRAUD-ON-THE-MARKET DOCTRINE)**

43. The market for Centrex's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, Centrex's securities traded at artificially inflated prices during the Class Period. On January 3, 2017, and January 5, 2017, the Company's stock price closed at a Class Period high of \$8.05 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities relying upon the integrity of the market price of Centrex's securities and market information relating to Centrex, and have been damaged thereby.

44. During the Class Period, the artificial inflation of Centrex's stock was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about Centrex's business, prospects, and operations. These material misstatements and/or omissions created an unrealistically positive assessment of Centrex and its business, operations, and prospects, thus causing the price of the Company's securities to be

artificially inflated at all relevant times, and when disclosed, negatively affected the value of the Company stock. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

45. At all relevant times, the market for Cemtrex's securities was an efficient market for the following reasons, among others:

(a) Cemtrex stock met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market;

(b) As a regulated issuer, Cemtrex filed periodic public reports with the SEC and/or the NASDAQ;

(c) Cemtrex regularly communicated with public investors via established market communication mechanisms, including through regular dissemination of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and/or

(d) Cemtrex was followed by securities analysts employed by brokerage firms who wrote reports about the Company, and these reports were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

46. As a result of the foregoing, the market for Cemtrex's securities promptly digested current information regarding Cemtrex from all publicly available sources and reflected such information in Cemtrex's stock price. Under these circumstances, all purchasers of Cemtrex's securities during the Class Period suffered similar injury through their purchase of Cemtrex's securities at artificially inflated prices and a presumption of reliance applies.

47. A Class-wide presumption of reliance is also appropriate in this action under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972), because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or omissions. Because this action involves Defendants' failure to disclose material adverse information regarding the Company's business operations and financial

prospects—information that Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered them important in making investment decisions. Given the importance of the Class Period material misstatements and omissions set forth above, that requirement is satisfied here.

### **NO SAFE HARBOR**

48. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward looking, they were not identified as “forward-looking statements” when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the speaker had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of Cemtrex who knew that the statement was false when made.

### **FIRST CLAIM** **Violation of Section 10(b) of The Exchange Act and** **Rule 10b-5 Promulgated Thereunder** **Against All Defendants**

49. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

50. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase Cemtrex’s securities at artificially inflated prices. In



furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each defendant, took the actions set forth herein.

51. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Cemtrex's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

52. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about Cemtrex's financial well-being and prospects, as specified herein.

53. Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Cemtrex's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about Cemtrex and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

54. Each of the Individual Defendants' primary liability and controlling person liability arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a senior officer and/or director of the Company, was privy to and

participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of, and had access to, other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew and/or recklessly disregarded was materially false and misleading.

55. Defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Cemtrex's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations, financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

56. As a result of the dissemination of the materially false and/or misleading information and/or failure to disclose material facts, as set forth above, the market price of Cemtrex's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of the Company's securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired Cemtrex's securities during the Class Period at artificially high prices and were damaged thereby.

57. At the time of said misrepresentations and/or omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding the problems that Cemtrex was experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their Cemtrex securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

58. By virtue of the foregoing, Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

59. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

**SECOND CLAIM**  
**Violation of Section 20(a) of The Exchange Act**  
**Against the Individual Defendants**

60. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

61. Individual Defendants acted as controlling persons of Cemtrex within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their ownership and contractual rights, participation in, and/or awareness of the Company's operations and intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings, and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

62. In particular, Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

63. As set forth above, Centrex and Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their position as controlling persons, Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;
- (b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

#### **JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: February 24, 2017

**GLANCY PRONGAY & MURRAY LLP**

By: s/ Lesley F. Portnoy

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*Attorneys for Plaintiff*

## SWORN CERTIFICATION OF PLAINTIFF

### CEMTREX, INC. SECURITIES LITIGATION


I, Thomas Cullinan, individually, and/or in my capacity as trustee and/or principal for accounts listed on Schedule A, certify that:

1. I have reviewed the Complaint and authorize its filing and/or the filing of a Lead Plaintiff motion on my behalf.
2. I did not purchase **CEMTREX, INC.**, the security that is the subject of this action, at the direction of plaintiff's counsel or in order to participate in any private action arising under this title.
3. I am willing to serve as a representative party on behalf of a class and will testify at deposition and trial, if necessary.
4. My transactions in **CEMTREX, INC.** during the Class Period set forth in the Complaint are as follows:  
  
(See attached transactions)
5. I have not served as a representative party on behalf of a class under this title during the last three years, except for the following:
6. I will not accept any payment for serving as a representative party, except to receive my pro rata share of any recovery or as ordered or approved by the court, including the award to a representative plaintiff of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

I declare under penalty of perjury that the foregoing are true and correct statements.

2/23/2017

Date

DocuSigned by:  
  
95AB7503B938465...

Thomas Cullinan

**Thomas Cullinan's Transactions in  
Centrex, Inc. (CETX)**

<b>Date</b>	<b>Transaction Type</b>	<b>Quantity</b>	<b>Unit Price</b>
01/03/2017	Bought	1,500	\$7.6000
01/04/2017	Bought	500	\$8.0300
01/09/2017	Bought	500	\$8.1300
02/09/2017	Bought	500	\$6.9200
02/22/2017	Sold	-3,000	\$3.6800